No. 111 Original

# In the Supreme Court of the United States

OCTOBER TERM, 1993

FILED
JUL 7 1993
CLERK

STATE OF DELAWARE,

*Plaintiff,*

STATES OF ALABAMA, ALASKA, ARIZONA, ARKANSAS, CALIFORNIA, COLORADO, CONNECTICUT, FLORIDA, GEORGIA, HAWAII, IDAHO, ILLINOIS, INDIANA, IOWA, KANSAS, LOUISIANA, MAINE, MARYLAND, MICHIGAN, MINNESOTA, MISSISSIPPI, MISSOURI, MONTANA, NEBRASKA, NEVADA, NEW HAMPSHIRE, NEW JERSEY, NEW MEXICO, NORTH CAROLINA, NORTH DAKOTA, OHIO, OKLAHOMA, OREGON, RHODE ISLAND, SOUTH CAROLINA, SOUTH DAKOTA, TENNESSEE, TEXAS, UTAH, VERMONT, WASHINGTON, WEST VIRGINIA, WISCONSIN, AND WYOMING, THE COMMONWEALTHS OF KENTUCKY, MASSACHUSETTS, PENNSYLVANIA AND VIRGINIA, AND THE DISTRICT OF COLUMBIA,

*Plaintiffs in Intervention,*

v.

STATE OF NEW YORK,

*Defendant.*

**On Bill of Complaint**

## AMENDED COMPLAINT IN INTERVENTION OF THE STATES OF ALABAMA, ALASKA, ARKANSAS, FLORIDA, GEORGIA, HAWAII, ILLINOIS, INDIANA, IOWA, KANSAS, LOUISIANA, MAINE, MISSISSIPPI, MISSOURI, MONTANA, NEVADA, NEW HAMPSHIRE, NEW JERSEY, NORTH CAROLINA, NORTH DAKOTA, OHIO, OKLAHOMA, RHODE ISLAND, SOUTH DAKOTA, UTAH, VERMONT, WASHINGTON, WEST VIRGINIA, AND WYOMING, AND THE COMMONWEALTHS OF KENTUCKY AND PENNSYLVANIA

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# AMENDED COMPLAINT IN INTERVENTION OF THE STATES OF ALABAMA, ALASKA, ARKANSAS, FLORIDA, GEORGIA, HAWAII, ILLINOIS, INDIANA, IOWA, KANSAS, LOUISIANA, MAINE, MISSISSIPPI, MISSOURI, MONTANA, NEVADA, NEW HAMPSHIRE, NEW JERSEY, NORTH CAROLINA, NORTH DAKOTA, OHIO, OKLAHOMA, RHODE ISLAND, SOUTH DAKOTA, UTAH, VERMONT, WASHINGTON, WEST VIRGINIA, AND WYOMING, AND THE COMMONWEALTHS OF KENTUCKY AND PENNSYLVANIA

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The States of Alabama, Alaska, Arkansas, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Mississippi, Missouri, Montana, Nevada, New Hampshire, New Jersey, North Carolina, North Dakota, Ohio, Oklahoma, Rhode Island, South Dakota, Utah, Vermont, Washington, West Virginia and Wyoming, and the Commonwealths of Kentucky and Pennsylvania ("States" or "Alabama, *et al.*"), Plaintiffs in Intervention, by and through their Attorneys General and counsel, file this Amended Complaint in Intervention and allege as follows:

## I. JURISDICTION

1. The original jurisdiction of this Court is invoked under Article III, Section 2 of the Constitution of the United States and Section 1251 of Title 28 of the United States Code.

## II. PENDING ACTION

2. On May 31, 1988, this Court granted the Motion for Leave to File Complaint by Plaintiff State of Delaware ("Delaware") invoking the original jurisdiction of the Court to resolve a controversy between Delaware and Defendant State of New York ("New York") as to which State is entitled to claim and take possession of certain unclaimed intangible personal property held by securities brokerage firms incorporated in Delaware.

3. On February 21, 1989, the Court granted the Motion for Leave to File Complaint in Intervention by the State of Texas ("Texas"). The Texas Complaint also made subject to this suit certain additional unclaimed intangible personal property held by the Depository Trust Company.

4. On March 30, 1993, the Court granted the Motions of the States of Alabama, Alaska, Arkansas, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Louisiana, Maine, Mississippi, Missouri, Montana, Nevada,

New Hampshire, New Jersey, North Dakota, Oklahoma, South Dakota, Utah, Vermont, Washington, West Virginia and Wyoming, and the Commonwealths of Kentucky and Pennsylvania, for Leave to File Complaint in Intervention. These Complaints expanded the scope of this action to include certain unclaimed intangible property held by all brokerage firms, wherever incorporated, and by banks and other nonbrokerage firm intermediaries.

5. On March 30, 1993, the Court also granted the Motions of the States of Arizona, California, Colorado, Connecticut, Idaho, Maryland, Michigan, Minnesota, Nebraska, New Mexico, North Carolina, Ohio, Oregon, Rhode Island, South Carolina, Tennessee and Wisconsin, the Commonwealths of Massachusetts and Virginia, and the District of Columbia, for Leave to File Complaint in Intervention.

6. On June 8, 1993, in Litigation Management Order No. 6 at 8, the Special Master granted leave to all intervening parties to file amended Complaints within 30 days. In accordance with that Order, the States hereby amend their several Complaints earlier filed with the Court.

## III. CLAIM OF PLAINTIFFS IN INTERVENTION

7. The States seek a determination of their rights to certain unclaimed intangible personal property, referred to as "Distributions" as defined in paragraph 8 below, which comes into being and acquires its character as unclaimed property in the context of securities transactions.

8. "Distributions" consist of unclaimed dividends, profits, principal, interest, and other payments on or with respect to securities, held or formerly held by brokerage firms, banks, depositories, clearinghouses for the settlement of trades in securities, and by other nonbrokerage firm intermediaries (collectively "Intermediaries"). The Distributions constitute unclaimed intangible personal

property held or formerly held by Intermediaries because the Intermediaries do not or did not know the identities or addresses of the beneficial owners of the Distributions and thus do not or did not know to whom to transmit them.

9. New York has taken possession of a portion of these Distributions to which it is not entitled. The States are entitled to recover from New York an undetermined portion of those Distributions either because (a) under this Court's primary rule, the last known addresses of the owners of the Distributions are in their respective States or, (b) under this Court's backup rule, if there is no last known address, the Distributions were taken by New York from Intermediaries incorporated in the respective intervenor States.

10. The States further claim entitlement to recover from New York such Distributions taken by New York as to which there are no last known addresses of the owners and which were held by Intermediaries not incorporated in any State, according to equitable principles determined or to be determined by the Court.

11. Alternatively, the States claim entitlement to recover pursuant to any ruling of the Court in this case an undetermined portion of Distributions taken by the State of New York.

**PRAYER FOR RELIEF**

WHEREFORE, the States pray:

1. That judgment be entered for that portion of the Distributions to which each State is entitled under applicable principles of law, plus prejudgment interest at the prevailing rate; and

2. Such other and further relief as this Court deems just and proper.

Respectfully submitted,

July 7, 1993

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